

Amendment No. 2 to HB0552

Sargent
Signature of Sponsor

AMEND Senate Bill No. 462*

House Bill No. 552

by deleting all the language after the caption and by substituting instead the following language:

WHEREAS, granting authority to the comptroller of the treasury to oversee any of the indebtedness of local governments that substantially defers principal promotes local government accountability; and

WHEREAS, local governments with debt structures that promote “back loading” of principal repayment is contrary to the public interest because the burden to pay is unduly placed on future generations; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the “Anti-Kicking the Can Act”.

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 21, Part 1, is amended by adding the following as a new, appropriately designated section:

(a) As used in this section:

(1) “Balloon indebtedness”:

(A) Means any indebtedness that:

(i) Has a final maturity date thirty-one (31) or more years after the date of issuance;

(ii) Delays principal repayment for more than three (3) years after the date of issuance;

(iii) Capitalizes interest beyond the later of the construction period or three (3) years from the date of issuance; or

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(iv) Does not have substantially level or declining debt service;

and

(B) Does not include any indebtedness that:

(i) Has at least seventy-five percent (75%) of total principal amortized within ten (10) years from the date of issuance;

(ii) Has a debt service schedule in which each annual principal installment is not more than fifty percent (50%) in excess of the smallest prior installment;

(iii) Is being issued by a local government or local government instrumentality that has some amount of long-term indebtedness outstanding or proposed to be issued that is rated in the highest rating category for long-term debt instruments (AAA/Aaa) or the first tier (AA+/Aa1) of the second highest rating category for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation;

(iv) State or federal law requires the local government or local government instrumentality to participate in the financing program;

(v) Is a conduit transaction for a nongovernmental entity;

(vi) Is evidenced by a loan with either the United States department of agriculture of the United States department of housing and urban development; or

(vii) Has a final maturity less than sixty-one (61) months from the date of issuance.

(2) "Indebtedness" means:

(A) Any bond, note, loan agreement or any other evidence of a debt obligation in which a local government or local government instrumentality, either directly or indirectly, incurs a definite and absolute obligation to the payment of the principal of and interest on the debt obligation; and

(B) Does not include bonds and loan agreements authorized by title 7, chapter 53;

(3) "Local government" means any incorporated city or town, metropolitan government, county, or utility district; and

(4) "Substantially level or declining debt service" means an amortization schedule in which the aggregate amount of debt service calculated as principal plus interest that is payable in each year is not in excess of the lowest aggregate amount of debt service payable in any prior year by more than the greater of five percent (5%) or ten thousand dollars (\$10,000). For purposes of determining whether debt service is substantially level or declining on bonds issued with a variable interest rate, the average rate of interest at which fixed interest rate bonds of the same maturities would be sold should be estimated and the total principal amount should be amortized based upon such interest rate assumption.

(b) On and after July 1, 2014, if any local government or local government instrumentality proposes to issue any balloon indebtedness, then the local government or local

government instrumentality shall first obtain approval from the comptroller of the treasury or the comptroller's designee in accordance with subsection (c).

(c) Prior to the adoption by the local government or local government instrumentality of any action authorizing the issuance of balloon indebtedness, the local government or local government instrumentality shall submit a plan of balloon indebtedness to the comptroller of the treasury or the comptroller's designee for approval. The comptroller of the treasury or the comptroller's designee may request any additional information as may be required to properly review the proposed plan of balloon indebtedness. The comptroller of the treasury or the comptroller's designee shall evaluate each plan of balloon indebtedness based on the plan's particular circumstances and shall approve the plan only if a determination is made that the repayment structure is in the public's interest. The state funding board is authorized to establish guidelines, rules, or regulations with respect to the comptroller of the treasury's approval of balloon indebtedness.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.